

ESTTA Tracking number: **ESTTA586072**Filing date: **02/06/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	CB Franchise Systems, LLC		
Entity	Corporation	Citizenship	California
Address	8571 Higuera Street Culver City, CA 90232 UNITED STATES		

Attorney information	William Archer 221 N. Figueroa Street, Suite 1200 Los Angeles, CA 90012 UNITED STATES William.Archer@lewisbrisbois.com
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**Registration Subject to Cancellation**

Registration No	4146152	Registration date	05/22/2012
Registrant	Fresh Life Foods LLX 10700 Marine View Drive SW Seattle, WA 98146 WA		

**Goods/Services Subject to Cancellation**

Class 043. First Use: 2009/06/00 First Use In Commerce: 2009/06/00  
All goods and services in the class are cancelled, namely: Restaurant services, including sit-downservice of food and take-out restaurantservices

**Grounds for Cancellation**

Abandonment	Trademark Act section 14
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Attachments	CB Franchise - Petition for Cancellation Reg. No. 4,146,152.pdf(1401872 bytes )
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**Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ William Archer
Name	William Archer
Date	02/06/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of

Registration No.: 4,146,152

Date of Issuance: May 22, 2012

CB FRANCHISE SYSTEMS, LLC,	)	Cancellation No.
	)	
Petitioner,	)	
	)	
	)	PETITION FOR
v.	)	CANCELLATION
	)	
FRESH LIFE FOODS, LLC,	)	
	)	
	)	
Registrant.	)	

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CB Franchise Systems, LLC ("Petitioner"), a California limited liability company whose business address is 8571 Higuera Street, Culver City CA 90232 , believes that it is being or will be damaged by Registration No. 4,146,152 and hereby petitions to cancel same.

As grounds for cancellation, it is alleged that:

CLAIM FOR RELIEF

1. The mark registered under Registration No. 4,146,152, of Fresh Life Foods, LLC (hereafter, "Registrant") consists of the word BUILTBURGER, and said registration claims first use in June, 2009 for restaurant services, including sit-down service of food and take-out restaurant services, in Class 43.

2. A November 28, 2011 article at [seattle.com](http://seattle.com) captioned “BuiltBurger is Closing” reported that, on November 28, 2011 the owners of BuiltBurger “sent out an email confirming the sad news: BuiltBurger is closing”. Ex. 1. The article reports that the email from the owners stated: “We are re-locating to the East Coast to start a new chapter. We have decided to ‘pause’ the BuiltBurger brand.” Id. The article further reports that “[t]he final burgers will be sold on Friday, December 2 [,2011]”. Id.

3. Petitioner, however, is informed and believes that BuiltBurger never re-opened and that the registered owner of the marks “BUILTBURGER” and “BUILTBURGER THE WORLDS FINEST HAMBURGERS” has abandoned those marks.

4. BuiltBurger’s Facebook page says they are ‘permanently closed’. Ex.2.

5. An Internet search of BuiltBurger’s former website <http://www.builtburger.com/> yields a message: “Internet Explorer cannot display the webpage”. Ex. 3.

6. The NS Lookup at the link below reflects that <http://www.builtburger.com/> is not registered to DNS:  
<http://networktools.com/nslookup/Default.asp?domain=builtburger.com&type=255&server=67.222.132.198&class=1&port=53&timeout=5000&advanced=true&go.x=16&go.y=9>  
Ex. 4.

7. The Washington State Secretary of State website reflects that the Registrant of the marks “BUILTBURGER” and “BUILTBURGER THE WORLDS FINEST HAMBURGERS”, Fresh Life Foods, LLC, is “inactive”, having expired as an entity on August 31, 2012. Ex. 5.

8. Petitioner CB Franchise Systems, LLC (“Petitioner”) is a California limited liability company that has been doing business in interstate commerce in the United States since no later than December 31, 2005 by its regular provision of restaurant services within and outside of the State of California and has regularly provided such services in the United States and other countries.

9. Petitioner is the exclusive licensee of JAW Restaurant Management, LLC, the registered owner of the marks “THE COUNTER CUSTOM BUILT BURGERS”, Reg. Nos. 3796162 and 3796163, for restaurant services featuring non-vegetarian cuisine, both filed January 8, 2008, registered June 1, 2010, and having dates of first use in commerce of December 31, 2005. Petitioner has used such in commerce in the United States since at least December 31, 2005.

10. Due to the continuous and extensive use of said marks in connection with restaurant services, Petitioner has become nationally known in the restaurant industry. Petitioner has expended great effort and significant sums of money in advertising and promoting its marks in connection with its services and in creating and maintaining the goodwill symbolized by its marks. By reason of this effort and expenditure, Petitioner’s marks have become well known as identifying Petitioner’s services.

11. As a result of the foregoing, Petitioner has developed an exceedingly valuable goodwill with respect to its marks and these marks have become widely and favorably known to the public throughout the United States and internationally and have become recognized by consumers, the trade and public at large as identifying and distinguishing Petitioner as the source of origin of services bearing Petitioner’s marks.

12. Petitioner is the exclusive licensee of multiple trademark applications, including Application Serial No. 85927011 for “BUILT [CUSTOM BURGERS]”, Application Serial No. 85903420 for “BUILT BY THE COUNTER [CUSTOM BURGERS]”, and Application Serial No. 85755204 “BUILT CUSTOM BURGERS”, all for restaurant services. All three applications have been refused by the United States Patent & Trademark Office due to Registrant’s registrations of the marks “BUILTBURGER” and “BUILTBURGER THE WORLDS FINEST HAMBURGERS”.

13. Petitioner believes that it will be and is being damaged by the continued registrations of the abandoned marks “BUILTBURGER” and “BUILTBURGER THE WORLDS FINEST HAMBURGERS” in Registration Nos. 4,146,152 and 4,049,698.



WHEREFORE, Petitioner CB Franchise Systems, LLC prays that Registration No. 4,146,152 be cancelled.

Respectfully submitted,

DATED: February 6, 2014    LEWIS, BRISBOIS, BISGAARD & SMITH LLP

By    /William Archer/

WILLIAM ARCHER  
Attorneys for Petitioner CB FRANCHISE SYSTEMS LLC

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# EXHIBIT 1

Restaurant News

## BuiltBurger is Closing

**This week is your last chance to enjoy the Pioneer Square shop's distinctive patties.**

Published Nov 28, 2011, 10:20am

By [Allecia Vermillion](#)



BuiltBurger photo by Geoffrey Smith.

A few phone calls to [BuiltBurger](#) last week were met with hesitant “no comment” responses, but today the Pioneer Square burger joint sent out an email [confirming](#) the sad news: BuiltBurger is closing. According to the email from owners David and Rebecca Makuen, “We are re-locating to the East Coast to start a new chapter. We have decided to ‘pause’ the BuiltBurger brand.”

The final burgers will be sold on Friday, December 2. BuiltBurger began as a patty wholesaler and opened its Pioneer Square shop in late 2010. The big draw: [fixings ground right into the meat](#), as well as some tasty potato beignets. Make your way there this week to bid a sad adieu to its decadent wares.

File Under: [Seattle Restaurant Closings](#), [Burgers](#), [Hamburgers](#), [Closings](#)

# EXHIBIT 2



Email or Phone:  Password:   
  
☐ Keep me logged in [Forgot your password?](#)

## BuiltBurger is on Facebook.

To connect with BuiltBurger, sign up for Facebook today.

[Sign Up](#)
[Log In](#)


## BuiltBurger

438 likes (24 ratings)

5 (0-10) - Burger Restaurant  
 217 James Street (between 2nd and 3rd), Seattle, Washington 98104  
 (206) 724-0599

Permanently Closed

About

438



Photos

Likes

Map

### Highlights



**BuiltBurger**  
 November 4, 2011

Did you know? - TODAY is the last day of our Amazing \$5 All Natural Superb Classic BuiltBurger for members of our "Burger Worship Club" (Psst, sign up and the special is in your belly) - Topped with caramelized onions and other fixins. Close out the week right with other tasty delights (can you say, "Beignet Friday!")

Like Comment

1



**BuiltBurger**  
 October 31, 2011

Super excited about this week --- we did some braising and today we roll out our "Pot Roast" Built...sort of like Mom would cook, rich and savory, made with love. Plus, our trusty "Viva Carnitas" Built...again, more braising...this time succulent pork. See you all week.

Like Comment

1 2



**BuiltBurger**  
 October 18, 2011

Thanks to some very vocal Burger Worshipers requests, Up this Week: Brilliant Prosciutto (savory deliciousness) and Amazing Chicken Hot Wing (there is no reason not to give this one a whirl)...put 'em on a Tasting plate or order a full size. See you for lunch this week!

Like Comment

1



**BuiltBurger**  
 October 11, 2011

### Recent Posts by Others on BuiltBurger

[See All](#)



**Scott Taylor**  
 RIP

1 - April 12, 2013 at 11:36am

[More Posts](#)

Likes

[See All](#)



**Eater National**  
 Society/Culture Website



**Eater Seattle**  
 Society/Culture Website



**The Gleason Ranch**  
 Local Business



**Seattle 360**  
 Travel/Leisure



**Seattle magazine**  
 Magazine



**BuiltBurger**  
 October 21, 2011

Don't miss this FRIDAY FACEBOOK Special - From 11 to 3 - Enjoy our "21 Gleason" (100% local, aged, grass fed beef - exclusive to BuiltBurger) for \$8 (normally \$9.95)...hurry before they all get grilled - patties are limited!

Like Comment



**BuiltBurger**  
 October 18, 2011

There is some delicious action going on at Built this week -- we're featuring our "Firecracker" (that's right, 7 peppers and more IN the patty) and "Hawaiian" (yes, spam is included; topped with grilled pineapple). So, come warm up at BuiltBurger and take a flavor trip to the island. See you this week.

Like Comment

1



**BuiltBurger**  
October 7, 2011

The Tasting Plate at BuiltBurger - Go with three sliders or 2 sliders+side or 1 slider+2 sides - you pick and choose your flavors. We'll make them up really fine. I'm having: Jambalaya, Chorizo and Pastrami. How 'bout you? See you for lunch...++Sounders THIS Saturday++

Like Comment



**BuiltBurger**  
October 2, 2011

We're ready for the Seahawks faithful -- going for W #2 -- pre-game at Built with \$1 Session Beers and tasty Burgs. CALL AHEAD TO TAKE TO YOUR TAILGATE if you wish. Fresh "21 Gleason" grass fed gems are awaiting! Open at 11 am

Like Comment

1



**BuiltBurger**  
September 30, 2011

The Grill is warming up, our cooks are limbering up -- ecstatic about preparing Built's with Pastrami, Chorizo, Mushrooms, Bacon and more in our handmade patties. Call ahead for take out or let us please you in our house. Happy Burger Friday!

Like Comment

2



**BuiltBurger**  
September 26, 2011

Up this week --- Delightful Potsticker (wild, sustainable shrimp meets all-nat pork and the delicious flavors of a potsicker) and Marsala Mushroom (all-nat beef, marsala wine-braised mushrooms) --- yum x2, see you for lunch.

Like Comment

2



**BuiltBurger**  
September 20, 2011

SOUNDERS! Skip the stadium food and try our 21 Gleason grass-fed gem before the game or do you have your eye on our Magnificent Chorizo? Open until 7 tonight (Tuesday) for all to enjoy...

Like Comment

4



**BuiltBurger**  
September 17, 2011

Hello Seattle --- Our Firecracker (some folks had only small beads of sweat -- sold out, so we crafted more and of course the Supreme Pastrami is rockin' it this Friday. Grab a seat or call ahead and we'll have it piping hot and ready to go (I almost forgot, the 21 Gleason, grass-fed glory, is always a can't miss option on a tasting plate).

Like Comment



**BuiltBurger**  
October 8, 2011

Game-on at BuiltBurger - enjoy a burg and \$1 Session Lagers before the Sounders game. Open until 7 with some Fresh Jambalaya Built's ready to go. Call ahead for fast takeout!

Like Comment

1



**BuiltBurger**  
October 4, 2011

The French Quarter - so far away, but now so close in the form of a NEW BuiltBurger flavor - Our "Jumpin' Jambalaya" is a creole delight made with andouille pork, chicken and wild shrimp. All combined in a handsome patty (with a nice kick) topped with sauteed red and green bells and onions. All week in Pioneer Square!



Like Comment Share

3



**BuiltBurger**  
September 22, 2011

The Hot Wing -- good ones make you salivate, right? We're super proud of our "Amazin' Hot Wing" in BuiltBurger form - all nat chicken, bleu, celery, hot sauce - You gotta try one, but they will go fast. You might even want to call to reserve one.

Like Comment

2



**BuiltBurger**  
September 20, 2011

Sriracha, that red bottle with the rooster on it -- you'll find it ingeniously incorporated in a Special Built this week -- our beef fell in love and we top it with house-made pickled veg. for the perfect vinegar-y crunch. Not to stop there, we roasted off Italian Pancetta and mixed it with all-nat Beef and fresh Kale and top it with a fresh fennel slaw. Now we're talking. Only @BuiltBurger.



Hot Burgers, Cold \$1 Sessions - Pork Belly and Prosciutto are rockin' the grill for the Sounders today. Open until kickoff at 6.

[Like](#) [Comment](#)

2 1



**BuiltBurger**

September 8, 2011

UP Today: Our "Pibil" Pork Built - all natural, braised in yucatan spices in a banana leaf! Topped with lime slaw, gauc and pico. Also, our over-the-top Marvelous Mushroom (infused with gruyere). See you this week.

[Like](#) [Comment](#)

3 1

[Like](#) [Comment](#)

1



**BuiltBurger**

September 10, 2011

Some things just go together - Soccer, Burgers, Beer are three - warm up with us before the Sounders game. We have sweet Grass-fed local beef, Mushrooms and local Chorizo ready for 'ya. Open at 11 (with \$1 Sessions, of course).

[Like](#) [Comment](#)

3



**BuiltBurger**

August 30, 2011

We're back - after doing extensive research in SE Asia - oh man, some tasty creations on the horizon. Up this week - our "Chicken Picatta", that's right, topped with angel hair pasta. Back for another week (can't keep it off the grill) - our "BBQ Brisket" (with house slaw, pickles, cheddar). See you this week!

[Like](#) [Comment](#)

3

# EXHIBIT 3



## Internet Explorer cannot display the webpage

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What you can try:

[Diagnose Connection Problems](#)

[More information](#)



# EXHIBIT 4



[Patch management, vulnerability assessment, network audit - Scan your network FREE for 30-Days!](#)

[Privacy.net Browser Analyzer](#)

[Trademarks.org](#)

Nslookup

Query the DNS for resource records

domain  query type   
 server  query class   
 port  timeout (ms)   
☐ no recursion ☒ advanced output

67.222.132.198 is a non-cached DNS Server

[67.222.132.198] returned a **non-authoritative** response in 234 ms:

## Header

rcode: **Name server failed**  
 id: **0** opcode: **Standard query**  
 is a response: **True** authoritative: **False**  
 recursion desired: **True** recursion avail: **True**  
 truncated: **False**  
 questions: **1** answers: **0**  
 authority recs: **0** additional recs: **0**

## Questions

name	class	type
builtburger.com	IN	ANY

## Answer records

[none]

## Authority records

[none]

## Additional records

[none]

-- end --



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# **EXHIBIT 5**

## Search Results

Retrieving Corporations Information...



Viewing 1 - 1 of 1 results for "**Fresh Life Foods**"

- **FRESH LIFE FOODS LLC**

### FRESH LIFE FOODS LLC

[View Additional Information »](#)

[Purchase Documents for this Corporation »](#)

UBI Number	602754940
Category	LLC
Active/Inactive	Inactive
State of Incorporation	WA
WA Filing Date	08/19/2007
Expiration Date	08/31/2012
Inactive Date	12/03/2012
Duration	Perpetual
<b>Registered Agent Information</b>	
Agent Name	DAVID MAKUEN
Address	10700 MARINE VIEW DRIVE SW
City	SEATTLE
State	WA
ZIP	98146
<b>Special Address Information</b>	
Address	



City	
State	
Zip	

If the results of your Nonprofit Corporation search was unsuccessful, try searching the name using the [Charities database search](#).

[« Start New Search](#)

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